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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,885	08/29/2001	William C. Altmann	19570-05997	9823

7590 09/07/2004  
Paul L. Hickman  
PERKINS COIE LLP Patent Attorney  
P.O. Box 2168  
Menlo Park, CA 94026-2168

EXAMINER

LAMARRE, GUY J

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/942,885

Applicant(s)

ALTMANN, WILLIAM C.

Examiner

Guy J. Lamarre, P.E.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner *because address information is missing.*

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10/10/01.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Applicant's IDS of 10 Oct. 2001 has been entered. The Examiner has considered the IDS.

1.1 Pursuant to 35 USC 131, **Claims 1-34** are presented for examination.

#### Claim Objections

2. The claims in passim, e.g., **Claims 2, 28**, recite 'indicating capability of, can,' which are not positive limitations. It has been held that the recitation that an element is "capable of, or can, or has capability of" perform(ing) a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. All such occurrences shall be amended. Appropriate correction is required.

#### Specification

3. The disclosure is objected to because para. 28 recites that packet length is compared to checksum for error, which is not clear. Appropriate correction is required.

#### Claim Rejections - 35 USC ' 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.1 **Claims 1-8, 11-13, 16-18, 21-27 and 29-34** are rejected under 35 U.S.C. 102 (b) as being anticipated by **Koo** (US Patent No. 5,940,070; issued 17 Aug. 1999-IDS).

As per **Claims 1-8, 11-13, 16-18, 21-27 and 29-34**, **Koo** depicts, e.g., in Fig. 4 and related description at col. 2 line 2 et seq., the claimed data signal communications means wherein 'data transmission apparatus for transmitting an audio signal through a video signal cable for a computer system including a monitor having a sound speaker. The computer system includes an audio generating device for generating an audio signal; a video generating device for generating

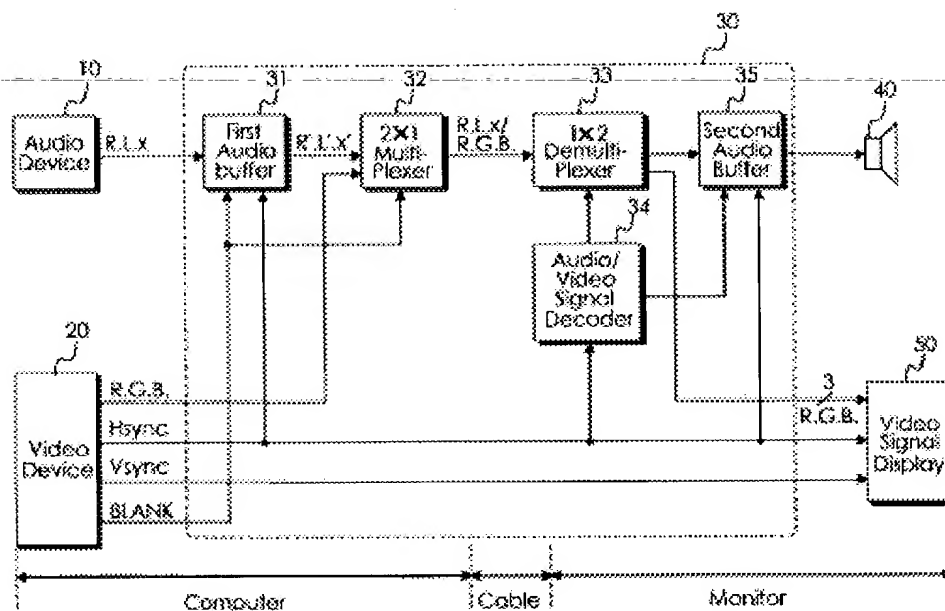


FIG. 4

a video signal and synchronization signals, a first audio buffer for temporary retaining the audio signal and outputting the audio signal during a blanking interval of the video signal in accordance with the synchronization signals; and a multiplexer for multiplexing the audio signal with the video signal by inserting the audio signal into the blanking interval of the video signal and for generating a multiplexed signal. A video signal cable is connected between the computer system and the monitor for transmitting the multiplexed signal from the computer system to the monitor. The monitor includes a demultiplexer connected to the video signal cable, for demultiplexing the multiplexed signal received from the video signal cable by separating the audio signal and the video signal from the multiplexed signal in accordance with a control signal and for generating a separated audio signal and a separated video signal; a second audio buffer for temporarily retaining the separated audio signal and outputting the separated audio signal to the sound speaker for sound production in accordance with the control signal and the synchronization signals; and a video display for simultaneously enabling a visual display of the

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separated video signal on a screen in accordance with the synchronization signals. The data transmission apparatus constructed according the principles of the present invention seeks to advantageously transmit the audio signal to the monitor for sound reproduction without requiring a separable audio cable." mux/demux means in Figs. 4,6: blocks 32-33, decoding/coding means in Figs. 4,6: blocks 34, video display means via computer monitor, sync/retiming means via Figs. 2-3, and 5.

### Claim Rejections - 35 USC ' 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

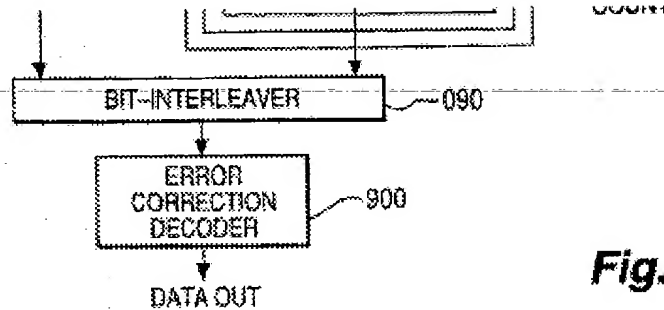
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5.1 **Claims 9-10, 14-15, 19-20 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Koo** (US Patent No. 5,940,070; issued 17 Aug. 1999-IDS) and of **Limberg** (US Patent No. 5,555,024; issued 10 Sept. 1996).

**As per Claims 9-10, 14-15, 19-20 and 28, Koo** substantially discloses the claimed data signal communications means.

**Not specifically described** in detail in **Koo** is the step whereby ECC means is provided. **However Koo does not restrict** signal communications means exclusively to non-ECC models: as seen in col. 7 line 39 et seq., **Koo does provide for data protection means via noise detection/reduction.** Thus other signal communications means embedding thereinto ECC means does not depart from **Koo's** disclosure.

**Accordingly, Limberg,** in an analogous art, discloses '*Transmitters for burying digital signals within the trace and retrace intervals of NTSC television signals,*' wherein such communications means embedding thereinto ECC means is described, e.g., in Fig. 10: block 900, a portion of which is depicted below.



**Fig. 10**

*“The digitized quadrature-phase video detector response is subjected to digital frame-comb and line-comb filtering to suppress remnant composite video signals; the comb filtering response is supplied to multi-level symbol decision circuitry to recover bit-serial digital data transmitted by the BPSK; and the bit-serial digital data is supplied to a decoder that corrects the digital information in the data using forward-error-correcting codes contained therein.”* {See **Limberg**, Id., col. 3 line 23 et seq.}

**Therefore**, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the procedure in **Koo** by including therein error coding scheme as taught by **Limberg**, because such modification would provide the procedure disclosed in **Koo** with a technique whereby “data protection is enhanced.” {See **Limberg**, col. 3 line 23 et seq.}

### Conclusion

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

**or faxed to:** (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA, Fourth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy J. Lamarre, P.E., whose telephone number is (703) 305-0755. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (703) 305-9595.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Guy J. Lamarre, P.E  
Primary Examiner  
8/25/04

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